

S.C.

Notice of Allowability	Application No.	Applicant(s)	
	10/019,312	BOECKH ET AL.	
	Examiner	Art Unit	
	Brian P Mruk	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to July 8, 2004.
2. ☒ The allowed claim(s) is/are 1-27.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20040915</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Brian P. Mruk
BRIAN P. MRUK
PATENT EXAMINER
TECH CENTER 1700

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas Cunningham on September 15, 2004.

2. The application has been amended as follows:

IN THE CLAIMS:

Claim 19. In line 5, **delete** "where R, R¹ and R² are as defined in claim 1", **and insert** ---where the radicals R independently of one another are hydrogen, C₁-C₈ alkyl, C₁-C₈ hydroxyalkyl or polyoxy(C₁-C₄)alkylene of 2 to 500 alkylene units or two radicals R together with the nitrogen atom to which they are attached form a 5- to 8- membered ring; R¹ is C₁-C₁₈ alkylene; and R² is hydrogen or methyl---

Claim 22. In line 6, **delete** "where R, R¹ and R² are as defined in claim 1", **and insert** ---where the radicals R independently of one another are hydrogen, C₁-C₈ alkyl, C₁-C₈ hydroxyalkyl or polyoxy(C₁-C₄)alkylene of 2 to 500 alkylene units or two radicals R together with the nitrogen atom to which they are attached form a 5- to 8- membered ring; R¹ is C₁-C₁₈ alkylene; and R² is hydrogen or methyl---

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3. The following is an examiner's statement of reasons for allowance:

The instant claims are allowable for the reasons of record found in Applicant's Remarks, dated June 8, 2004. Specifically, Langley et al, U.S. Patent No. 5,460,817, does not teach or suggest in general microcapsule formulations containing the specific cationogenic and anionogenic monomers required by applicant in the instant claims.

Accordingly, the claims viewed as a whole would not have been obvious to one of ordinary skill in the art at the time of the invention after viewing the prior art of record.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

BPM

Brian Mruk

September 15, 2004

Brian P. Mruk
Brian P. Mruk
Primary Examiner
Tech Center 1700